

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Criminal No. 08CR1474-L
)
Plaintiff,) **FINDINGS AND RECOMMENDATION OF**
) **THE MAGISTRATE JUDGE UPON A**
v.) **PLEA OF GUILTY TO A VIOLATION**
) **OF 8 U.S.C. SECTION 1326 (a)**
JESUS OMAR CHAVEZ-ESCALANTE(1),) **and (b) WITH WAIVER OF**
) **OBJECTIONS AND THE PREPARATION**
Defendant.) **OF THE PRESENTENCE REPORT**

Upon Defendant's request to enter a plea of Guilty pursuant to Rule 11 of the Federal Rules of Criminal Procedure, this matter was referred to the Magistrate Judge by the District Judge, with the written consents of the Defendant, counsel for the Defendant, and counsel for the United States.

Thereafter, the matter came on for a hearing on Defendant's plea of guilty, in full compliance with Rule 11, Federal Rules of Criminal Procedure, before the Magistrate Judge, in open court and on the record.

In consideration of that hearing and the allocution made by the Defendant under oath on the record and in the presence of counsel, and the remarks of the Assistant United States Attorney,

I make the following FINDINGS - that the Defendant

understands:

1. the right to persist in a plea of "not guilty";
2. the right to a speedy and public trial;
3. the right to be tried by a jury, or the ability to waive that right and have a judge try the case without a jury;
4. the right to the assistance of counsel at trial;
5. that, at trial, there would be the right to confront and cross-examine the witnesses against the Defendant;
6. that, at trial, there is the right to present a defense, and the right to have witnesses subpoenaed to testify on the Defendant's behalf;
7. that, at trial, the Defendant would have the right against compelled self-incrimination;
8. the nature of the charge filed in this case;
9. the maximum possible sentence that could be imposed (including imprisonment, fine, term of supervised release, and mandatory special assessment), the effect of a supervised release term, and that the sentencing guidelines are only advisory so that the Court may sentence Defendant up to the statutory maximum;
10. the terms of the plea agreement;

I further find that:

11. that Defendant's plea of guilty is made knowingly and voluntarily;
12. the Defendant is competent to enter a plea; and
13. there is a factual basis for Defendant's plea.
14. Defendant has admitted that he/she was deported and

1 removed from the United States after 7/3/07.

2 I therefore RECOMMEND that the District Judge accept the
3 Defendant's plea of guilty.

4 The sentencing hearing will be before United States District
5 Judge M. JAMES LORENZ, on 7/7/08, at 2:00PM.

6 Objections to these Findings and Recommendation were waived
7 by the parties at the hearing. The parties have also waived the
8 preparation of the Presentence report in this case.

9
10 Dated: 6/3/08



BARBARA L. MAJOR
United States Magistrate

11
12 Judge

13 Copies to:

14 Hon. M. JAMES LORENZ
15 U.S. District Judge

16 LARA STINGLEY
17 United States Attorney

18 CAREY GORDEN
19 Counsel for Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Criminal No. 08CR1474-L
)	
Plaintiff,)	CONSENT TO RULE 11 PLEA TO A
)	VIOLATION OF 8 U.S.C. SECTION
v.)	1326 (a) and (b) IN A FELONY
)	CASE BEFORE UNITED STATES
JESUS OMAR CHAVEZ-ESCALANTE(1),)	MAGISTRATE JUDGE
)	
Defendant.)	

I have been advised by my attorney and by the United States Magistrate Judge of my right to enter my plea in this case before a United States District Judge. I hereby declare my intention to enter a plea of guilty in the above case, and I request and consent to have my plea taken by a United States Magistrate Judge pursuant to Rule 11 of the Federal Rules of Criminal Procedure.

I understand that if my plea of guilty is taken by the United States Magistrate Judge, and the Magistrate Judge recommends that the plea be accepted, the assigned United States District Judge will then decide whether to accept or reject any plea agreement I may have with the United States and will adjudicate guilt and impose sentence.

I further understand that any objections to the Magistrate

1 Judge's findings and recommendation must be filed within 14 days
2 of the entry of my guilty plea.

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4
5 Dated: 6/3/08

JESUS OMAR CHAVEZ-ESCALANTE(1)
Defendant

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9 Dated: 6/3/08

CAREY GORDEN
Attorney for Defendant

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11
12 The United States Attorney consents to have the plea in this
13 case taken by a United States Magistrate Judge pursuant to
14 Criminal Local Rule 11.2.

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17 Dated: 6/3/08

LARA STINGLEY
Assistant United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Criminal No. **08CR1474-L**
)
Plaintiff,) **CONSENT TO RULE 11 PLEA TO A**
) **VIOLATION OF 8 U.S.C. SECTION**
v.) **1326 (a) and (b) IN A FELONY**
) **CASE BEFORE UNITED STATES**
JESUS OMAR CHAVEZ-ESCALANTE(1),) **MAGISTRATE JUDGE, WAIVER OF**
) **PRESENTENCE REPORT AND WAIVER**
Defendant.) **OF OBJECTIONS FOR IMMEDIATE**
) **SENTENCING**

I have been advised by my attorney and by the United States Magistrate Judge of my right to enter my plea in this case before a United States District Judge. I hereby declare my intention to enter a plea of guilty in the above case, and I request and consent to have my plea taken by a United States Magistrate Judge pursuant to Rule 11 of the Federal Rules of Criminal Procedure.

I understand that if my plea of guilty is taken by the United States Magistrate Judge, and the Magistrate Judge recommends that the plea be accepted, the assigned United States District Judge will then decide whether to accept or reject any plea agreement I may have with the United States and will adjudicate guilt and impose sentence.

I further understand that due to my request for immediate

1 sentencing in this case, I am waiving the preparation of a
2 presentence report and I am also waiving any objections I may
3 have to the Magistrate Judge's findings and recommendation
4 concerning the entry of my guilty plea.

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6
7 Dated: 6/3/08

JESUS OMAR CHAVEZ-ESCALANTE(1)
Defendant

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10
11 Dated: 6/3/08

CAREY GORDEN
Attorney for Defendant

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13 The United States Attorney consents to have the plea in this
14 case taken by a United States Magistrate Judge pursuant to
15 Criminal Local Rule 11.2 and further waives a presentence report
16 in this case as well as any objections to the Magistrate Judge's
17 findings and recommendation concerning the entry of the guilty
18 plea.
19

20 Dated: 6/3/08

LARA STINGLEY
Assistant United States Attorney